

HIPAA Survey 2Q01: Industry Mind-Set on Deadlines

The latest HIPAA panel survey offers strong support for a one-year transaction regulations deadline extension. More than anything, however, the industry wants a final ruling that HIPAA is here to stay, as well as firm deadline dates.

Core Topic

Healthcare: Healthcare Business Drivers, Strategies and Management Issues

Key Issue

How will changes in the regulatory, societal or technological arenas alter the importance or position of healthcare IT and the IS department?

Note 1

The HIPAA Panel Survey

Gartner completed its inaugural HIPAA Quarterly Panel Study in November 2000, and finished the third quarterly iteration in June 2001, to assess how the healthcare industry is responding to existing and impending regulations for compliance with HIPAA. Through at least 2003, Gartner will use quarterly survey updates to chart the industry's compliance progress, as measured against our HIPAA COMPARE (COMpliance Progress And REadiness) methodology.

The HIPAA survey seeks to understand how HCOs are responding to the challenges of HIPAA-compliance over time by studying, on a quarterly basis, a representative sample of randomly selected providers and payers. There were 191 participants in 2Q01, each selected using a stratified sample of 99 providers (comprising IDS organizations, stand-alone hospitals with at least 250 beds, and physician groups of at least 30 physicians) and 92 payers (comprising HMOs with more than 10,000 members, large national PPOs, and private health insurers). At these sample sizes, Gartner's provider and payer data are statistically valid to a margin of error of plus or minus 10 percent.

In its third administration of the quarterly HIPAA panel survey (see Note 1), Gartner decided to go beyond simply tracking the industry's compliance progress, and ask respondents several questions about their perception of possible deadline extensions, as well as any impact continuing lobbying efforts are having on their ability to get mobilized. The results indicate that the industry as a whole needs and expects more time to become compliant, although it expects this extra time to come in the form of relaxed compliance enforcement, rather than explicit deadline extensions.

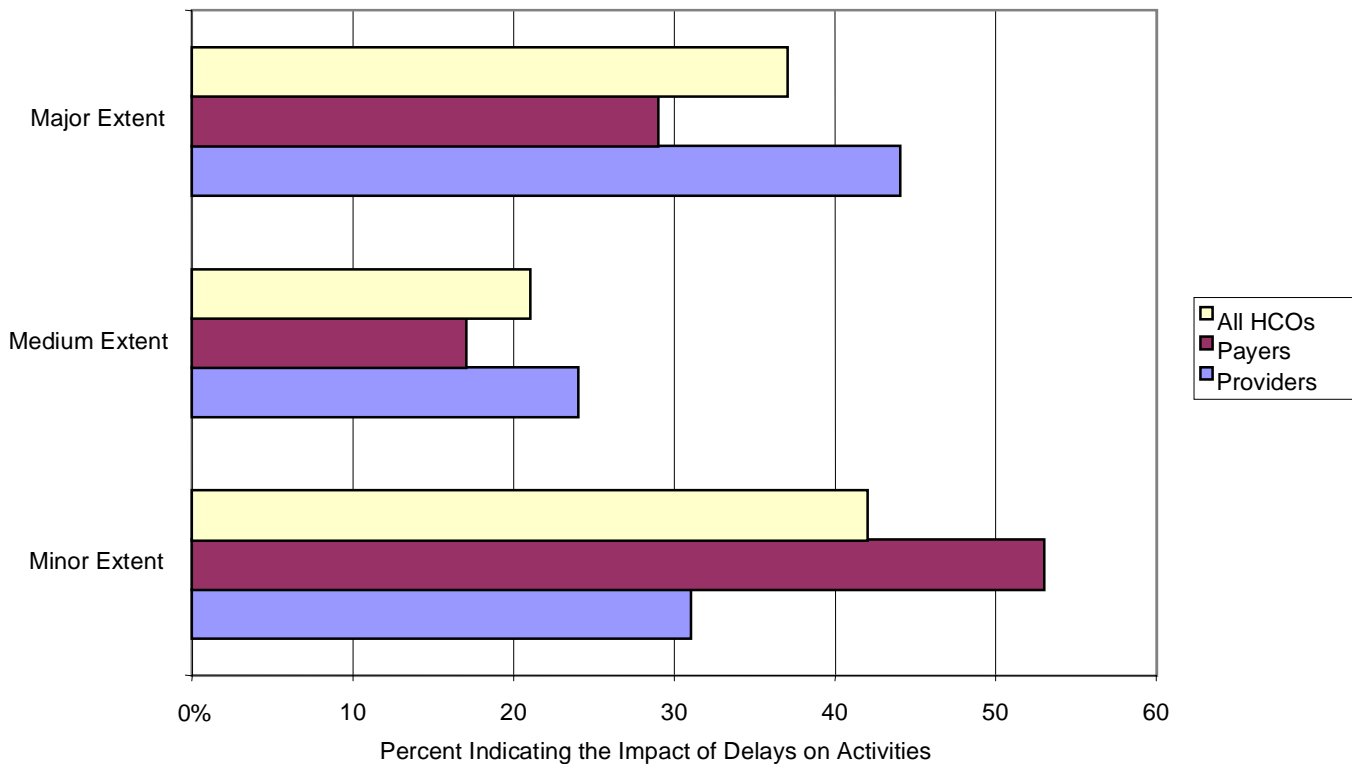
Impact of Deadline Uncertainties

Despite the privacy regulation becoming formal law on 14 April 2001, continuing lobbying efforts (especially those of the Blue Cross-Blue Shield Association and the American Hospital Association) have raised doubts at many HCOs about whether current deadlines will be extended. U.S. Senate Bill 836, which was still being debated in mid-July 2001, would provide an official two- to four-year extension on all HIPAA deadlines, including a synchronization of deadlines for the transaction/code set, privacy and security regulations. This ongoing campaign has had a detrimental impact on the industry's HIPAA progress. Needless to say, given the difficult financial climate they face, many healthcare executives are loath to dedicate financial and personnel resources to a project that they could conceivably postpone or ignore in the absence of deadline pressure. Figure 1 indicates that providers, in particular, have encountered challenges in getting started on HIPAA-compliance because of lingering doubts.

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Figure 1
Extent to Which Uncertainties Have Delayed HIPAA-Compliance Activities



Source: Gartner Research

Key Findings

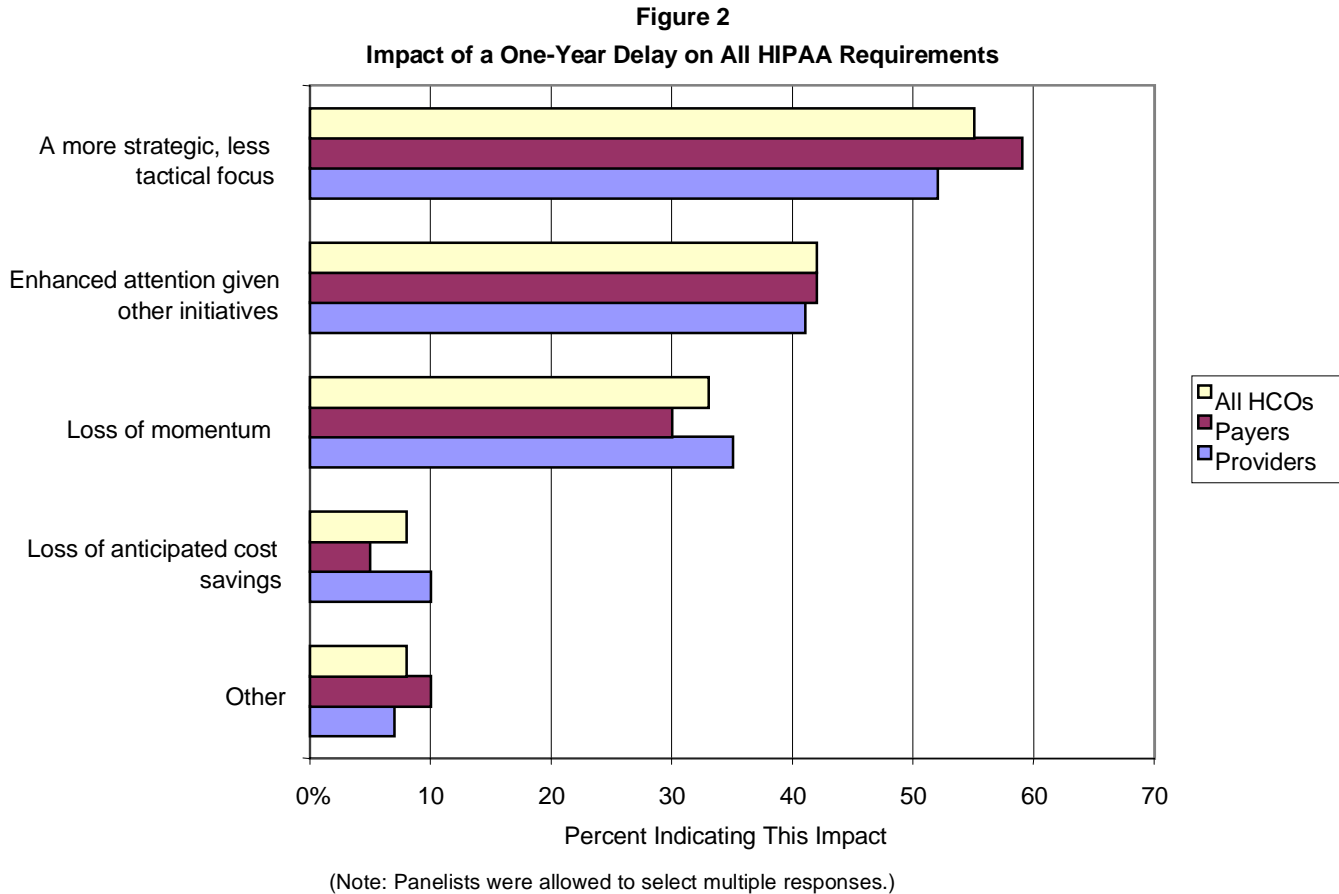
- A slim majority (52 percent) of payer organizations (payers) believe that the continuing lobbying and speculation regarding the final “official” deadlines has had only a minor impact on their compliance progress. Clearly, many payers are not risking the scenario of realizing too late that they are unable to receive standardized transactions from their provider networks, thus becoming liable for penalties and additional clearinghouse fees, in addition to possibly losing contracts to competitors.
- Providers, however, indicate that deadline uncertainties (and in some cases, doubt as to whether HIPAA was actually here to stay), have had an impact on their ability to get their organizations motivated and mobilized. A large majority (68 percent) believe that lingering doubts have had at least a moderate impact, and 44 percent believe that the impact has been dramatic.

Impact of Possible Delays

As of June 2001, only 15 percent of provider organizations had completed assessments of their transaction readiness. Because the assessment work will pale in comparison to the actual implementation and testing required after that task, we can assume that the October 2002 transaction deadline is simply not feasible — even though many payers are further ahead in their

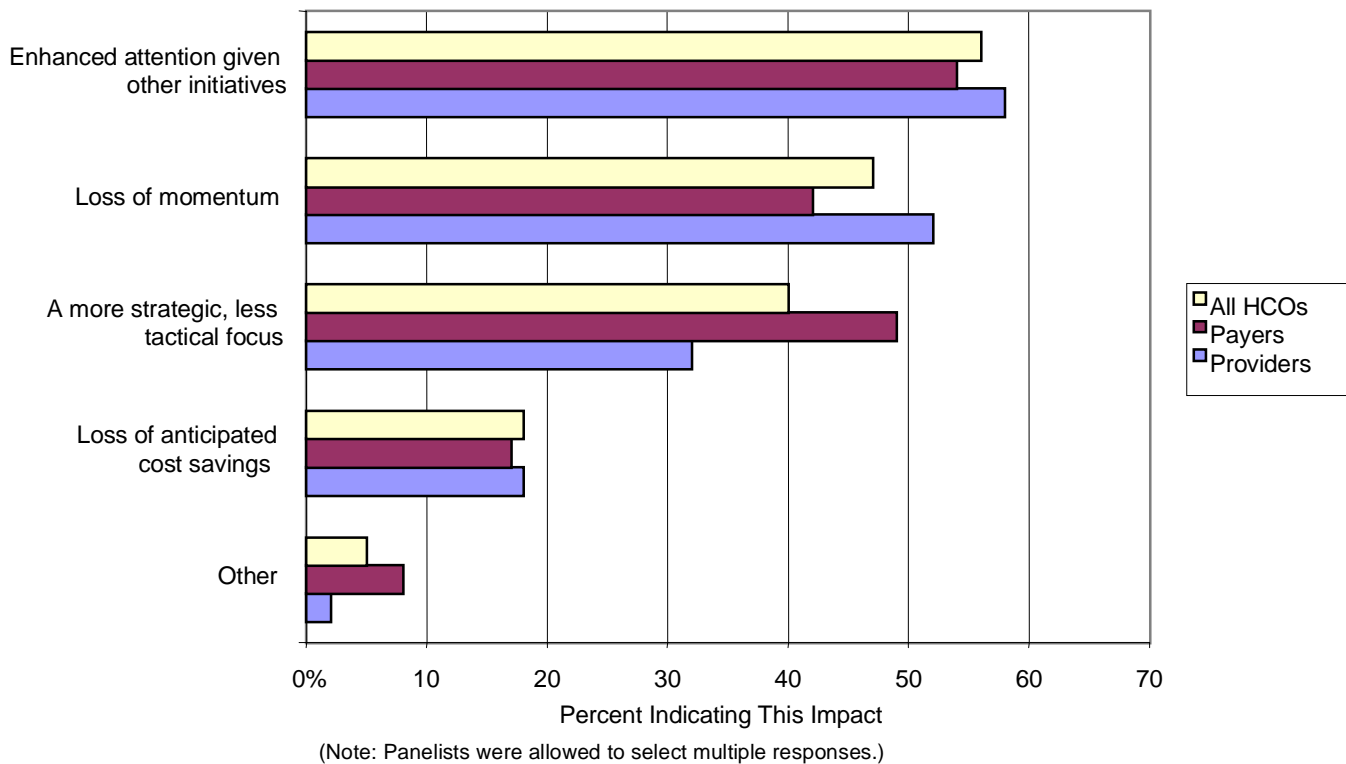
compliance activities. Also, most software vendors will not be delivering compliance upgrades until at least late 2001 or early 2002, which will not allow enough time to complete installation and testing for their entire customer bases.

Given these facts, we then explored the question of just how much more time is needed. Figure 2 and Figure 3 indicate that most of the industry favors a one-year extension, via deadline extensions or relaxed enforcement. Extending compliance deadlines two years would be a slightly less desirable solution for many respondents.



Source: Gartner Research

Figure 3
Impact of a Two-Year Delay on All HIPAA Requirements



Source: Gartner Research

Key Findings

- Fifty-five percent of HCOs believe a one-year extension will enable them to have an improved chance of achieving HIPAA's administrative simplification goals (a more strategic approach), rather than looking for "back-up-against-the-wall" workaround tactics (i.e., clearinghouse reliance). However, most payer clients tell Gartner that they need an additional year just to accomplish tactical compliance because of the challenges of converting their local code sets and making the necessary software modifications.
- Only 33 percent of HCOs believe that one extra year to become compliant will result in a loss of momentum in their HIPAA-compliance activities.

If the deadlines were to be extended to two years, the number of HCOs believing they will be able to approach HIPAA more strategically falls to 40 percent. Payers, however, are more likely (49 percent) than providers (32 percent) to favor the extra 24 months.

- From a provider perspective, in particular, a two-year extension might negatively impact the industry's progress — the two most-likely scenarios reported are that 58 percent of providers would then turn their attention to other initiatives

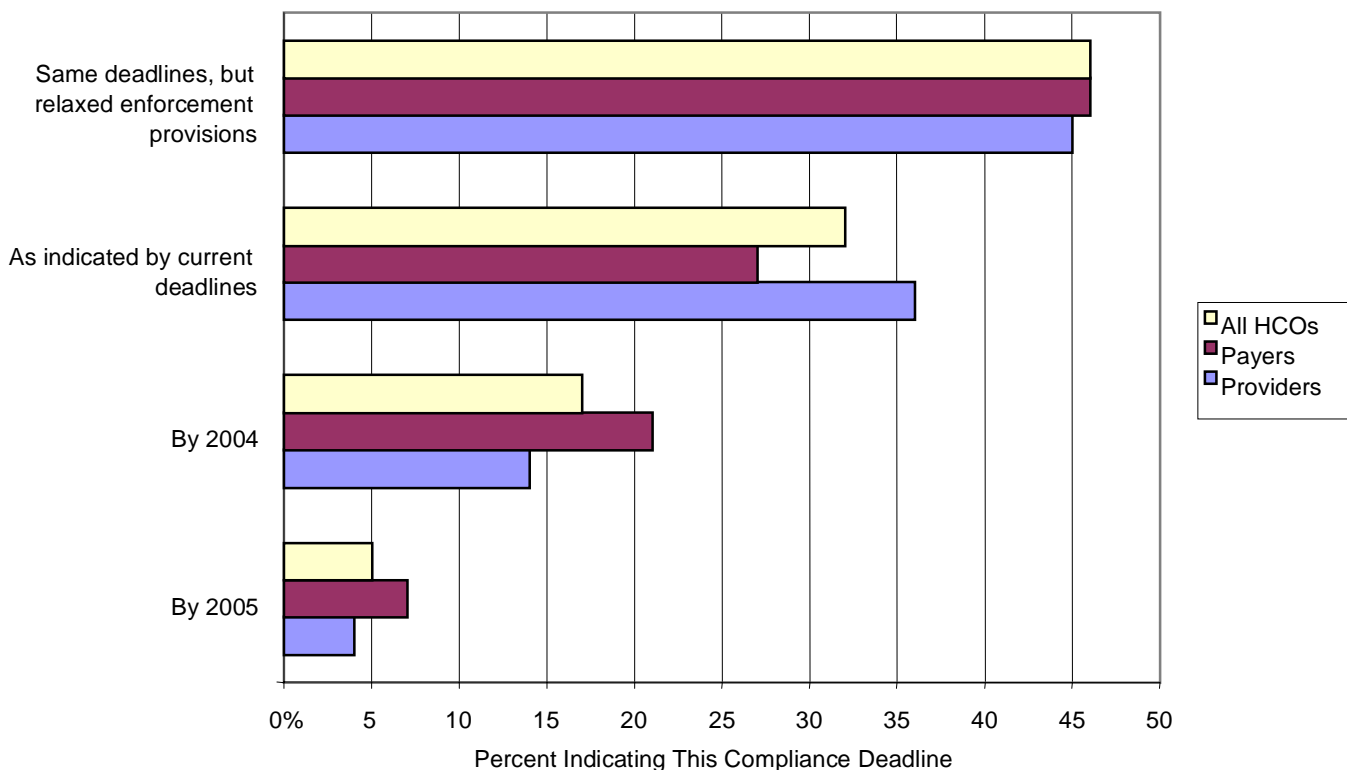
(i.e., clinical automation in response to the IOM study) and 52 percent would experience a loss of momentum.

- Further supporting a one-year vs. two-year extension, the percentage of payers and providers that anticipate losing opportunities for cost reductions approximately doubles in the two-year scenario.

Industry Expectations Regarding Deadlines

Across the board, the majority of payers and providers anticipate that Congress or DHHS will not officially report deadline extensions (see Figure 4). However, a substantial percentage of HCOs expect the final enforcement regulation to contain language indicating that across-the-board compliance auditing will not commence on the scheduled deadlines.

Figure 4
Expected HIPAA-Compliance Deadlines



Source: Gartner Research

Key Findings

- Publishing sweeping mandates without accompanying regulations on how those rules will be enforced may lead to unintended consequences for DHHS. Because relaxed enforcement is the most common expectation among HCOs, together with the lack of compliance progress to date, DHHS or Congress may have no choice but to acquiesce. To announce that comprehensive compliance audits and

penalties will begin on the scheduled deadlines would likely result in an industry in chaos.

- A somewhat surprising significant minority (33 percent), especially providers (36 percent), of HCOs believe that “a deadline is a deadline,” and expect that they must achieve those deadlines. Considering how far providers are behind payers in their compliance activities, this finding is highly contradictory, unless many providers simply feel that HIPAA represents “no big deal,” and that their software vendors will take care of compliance for them. The reality is that the industry will not suddenly become standardized in 15 months, especially if software vendors will not be ready for another six months.

Gartner’s Recommendations to Congress and DHHS

Gartner strongly recommends that Congress make the resolution of any open bills regarding HIPAA one of its top priorities. It also urges DHHS to expedite publication of the final enforcement rule. To accommodate the minimal progress demonstrated to date, Gartner recommends that the deadline for payers to accept standardized transactions be extended one year, to 16 October 2003. Then, allow a six-month transition period beyond that before all providers are required to submit all HIPAA EDI transactions in standard formats.

This recommendation is based on our analysis of the survey data and our knowledge of the necessary sequencing of implementation and testing activities. From a practical standpoint, most payers are going to experience a period where they have to accept standard and nonstandard transactions anyway, because not all providers are going to be ready. An extra year would allow payers to implement and test all linkages with their provider networks, and afford software vendors ample time to deliver compliant releases. Of course, deadline extensions are not going to please early adopter organizations, but the real benefits of administrative simplification will never be realized until the whole industry is on board.

Gartner examined the concept of “enforcement forbearance,” and found it to be impractical and unworkable. In theory, this approach would require all covered entities to submit formal documentation at specified checkpoints, proving their due diligence in pursuing compliance. However, this additional paper trail would create a bureaucratic nightmare for the agency charged with administering it, and in order to have any reliability (i.e., determine that each entity is being honest), it would require at least as much manpower as enforcing the HIPAA regulations themselves. Instead, an official deadline extension, with accompanying language that enforcement will be given a high

priority on the effective new deadline, would at least dispel the rampant uncertainty and give the industry a specific, yet reasonable, target for compliance.

As for the privacy regulations, Gartner has often forecast that enforcement will necessarily ramp up slowly over time, so the scheduled deadline of April 2003 does not pose an industry crisis at this time (despite the lack of provider progress on completing privacy assessments). However, the DHHS Office of Civil Rights should begin selective, aggressive and highly publicized prosecution of egregious offenders of these regulations on the effective date, to serve as a deterrent to other offenses and a motivation for HCOs to take privacy seriously.

Bottom Line: Given the lack of HIPAA-compliance progress demonstrated to date, particularly among providers, it is almost inevitable that at least some form of deadline or enforcement relief will be enacted by Congress or DHHS. However, rather than anticipating the luxury of extra time, HCOs must become much more aggressive and treat the scheduled deadlines as key milestones in their efforts. HCOs must demand commitments from their software vendors and immediately conduct gap analyses of their current and future states to begin the arduous task of implementing HIPAA's regulations during the next 15 to 20 months. If there is then extra time, it will be needed to implement and thoroughly test all links with business associates, including standardized transactions and chain of trust privacy agreements.

Acronym Key

DHHS	U.S. Department of Health and Human Services
EDI	Electronic data interchange
HCO	Healthcare organization
HIPAA	Health Insurance Portability and Accountability Act
IDS	Integrated delivery system
IOM	Institute of Medicine
PPO	Preferred provider organization